

The Maryland Board of Pharmacy
January 21, 1998
Public Minutes

Attendance: David Russo, President, W. Irving Lottier, Secretary; Commissioners-Stanton Ades, Wayne Dyke, George Voxakis, Paul Ballard, Board Counsel; Norene F. Pease, Executive Director, David Denoyer, Pharmacist Compliance Officer and Carol Gibbs, Staff Secretary

Guests: Maureen E. Kelly, DuPont Merck
Pat Haak, BCBS of MD
Dave Kowalczyk, BCBS of MD
Ray Love, University of Maryland-School of Pharmacy
Vicki Shamblen, Pharmacy Student-University of Maryland
Harold B Jones, Division of Drug Control
Lauren Baldwin, NACDS
Tony Tommasello, PEAC
Nathan Gruz, Pharmacist

Absent: Commissioner Barbara Faltz-Jackson, Rev. William E. Johnson, Sr.; Dorothy Levi

Chair David Russo called the Public Session of the Board Meeting to order at 8:42 a.m.

1. Record of Conflict of Interest

David Russo began the Public Session with the first order of business, asking if any Board member present had any conflict of interest with any agenda item. For the record, there were no conflicts of interest pertaining to the January Public Agenda items.

2. Minutes

David Russo made a motion to approve the December 17, 1997 minutes as written. Wayne Dyke seconded the motion to approve the minutes and all Board members unanimously agreed.

3. Reciprocity

Wayne Dyke met with seven (7) candidates on January 21, 1998, all of whom were applying for reciprocity. The reciprocity candidates are listed as follows:

Sean J. Belouin

Jennifer A. McMillin

Janis H. Hill
David R. Jolliffe
Susan J. Raines

Tuanh Tran-Nguyen
Ilona Ptashka

Wayne Dyke made a motion to approve all reciprocity candidates for licensure. Stanton Ades seconded the motion and all Board members unanimously agreed.

4. Guest-Vice President from Blue Cross/Blue Shield Regarding Internal Audit Process for Drug Claims

Guest speakers David Kowalczyk and Pat Haak of the BC/BS Internal Audit Department were present to discuss the new special investigation audit unit. The new corporate structure will be named CareFirst of Maryland, Inc., D/B/A: Blue Cross/Blue Shield of Maryland which is the seventh largest plan of Blue Cross in the nation. The audit unit consists of four primary functions: Corporate audit, MIS Audit, National Management Information System Audit and Special Investigations. The audit unit reviews the activities of chain, retail, and mail order pharmacies in and out of the state. Representatives from the company plan to meet with organizations such as MPhA and MHSP to strengthen the communication between pharmacies and insurance the company.

5. Executive Director's Report

A. Update of Board/Poison Information Center Media Campaign

Norene Pease, George Voxakis, Barbara Faltz Jackson and Tamarra Banks met with with members of the Oversight Committee including representatives from the Maryland Pharmacists Association, the Maryland Association of Health Systems Pharmacists, the University of Maryland School of Pharmacy, the Maryland Poison Information Center, the University of Maryland Foundation and MMA, the media consultant, to discuss the timeframes for development of a plan for the media campaign. It will take approximately one (1) month to develop a creative concept for the Committee to review. The Committee discussed with the consultants the, background, purpose and intent for the campaign. The next scheduled meeting is February 17, 1998 at 4:00 p.m. in the MMA Office.

B. Regular Meeting with the School of Pharmacy

Norene Pease, David Russo, Irving Lottier and Stanton Ades met with representatives of the School of Pharmacy. Topics discussed included: student drug testing, the student experiential training program, mechanisms for ensuring appropriate decision making concerning narrow therapeutic

index drugs, and the collaborative practice and medication administration legislative proposals.

C. Bi-Monthly Report to the Secretary DHMH

Norene Pease submitted an updated bi-monthly report to the Secretary of DHMH addressing new developments/changes within the Board. The report discussed the Task Force on the Future of Pharmacy Practice, the status of the Media Campaign, an update on the Quality Assurance Team's report on the relationship of Pharmacy and prescribing boards with the Division of Drug Control, an update on the implementation of the Oral English Competency Examination, and information on the new process for prospective auditing of continuing education credits.

D. Forum on the Regulatory Management of Chemically Dependent Health Care Practitioners

The Citizen Advocacy Center is holding a two day conference in March on the topic of chemically dependent health care practitioners . The conference is intended to bring representatives from health occupations boards, and citizen advocacy groups together to discuss strategies for addressing chemical dependency problems relating to health care practitioners and how to best protect the public and encourage professionals to obtain appropriate treatment services. Stanton Ades and David Denoyer expressed interest in attending the conference and the Board instructed Norene Pease to approve payment of the registration fee for one of them to attend the conference.

6. Election of Board Officers for 1998

George Voxakis nominated David Russo for Board President and Irving Lottier for Board Secretary. Stanton Ades seconded the motion and all Board members unanimously agreed.

7. Board Counsel's Report on Due Process Considerations Relating to Prospective Continuing Education Audits

Paul Ballard, Board Counsel advised that Title 12 has language which allows the Board to deny renewal of a pharmacist's license when continuing education credits are not completed by the close of the renewal period. Board staff should not issue a renewed license in these circumstances. Each month, the Board should set aside time to meet with any licensee who has a concern about the denial of a renewed license based on a problem relating to continuing education. The licensee must receive appropriate notice of the meeting. Staff and the Board

should consider that the expired license is in effect until the Board provides the licensee with the opportunity for a meeting with the Board. Board Counsel will follow up this report with written recommendations to the Board on how to proceed in these situations.

Licensees who are selected for the audit will receive notice, via separate letter, at the time the renewal application is mailed. Those persons selected for the audit should mail original copies of continuing education (CE) certificates to the Board. Licensees should retain copies of the originals for their record. Original copies of continuing education certificates will be returned to licensees once they have been reviewed by the Board. Those persons selected for the audit should forward CE certificates to the Board as soon as possible in order to ensure that their license is renewed prior to the expiration date.

8. Task Force/Strategic Planning Reports

The Strategic Planning Team Committee members met with Delegate Bozman on January 6, 1998 to discuss the two (2) proposed bills. As follow up to the meeting Delegate Bozman, George Voxakis, David Russo and Norene Pease met on January 20, 1998 with Senator Hollinger regarding introduction of the bills. The strategic planning team will continue to discuss how to proceed with the collaborative practice bill in a meeting on Janaury 26, 1998. Delegate George Owings has agreed to sponsor the Medication Administration Bill.

9. Committee Reports

A. Licensing Committee

Wayne Dyke reported on the implementation of the Oral English Competency Exam which began in January, 1998. Out of the seven candidates who appeared for the interview on January 21, two applicants had not been tested for the oral English competency. Applicants will not receive a pharmacist license until the test has been taken and passed. Wayne Dyke made a motion that reciprocity candidates may appear for the interview and written examination before the oral competency testing has been completed. George Voxakis seconded the motion and it passed unanimously. Candidates for licensure by reciprocity will be encouraged to take the oral competency examination prior to appearing for the reciprocity interview and examination.

B. Legislative Committee

1. Regulation Update

a. Follow-up Pending Regulations

- (i) COMAR 10.19.03 Controlled Dangerous Substances-Regulatory Changes Required by Changes to Federal Regulations - no changes to the 72 hour ruling for controlled substances. Will wait for update to Federal Regulations before proceeding.
- (ii) COMAR 10.34.20 Prescription Transmission System - still being reviewed, discussed under the Practice Committee item below
- (iii) COMAR 10.32.13 Delegation to Unlicensed Medical Assistants - Currently, unlicensed assistants can transmit a prescription. David Russo will attend meeting with BPQA to discuss the issue on January 28, 1998. He will report on BPQA's direction on these regulations at the next Board meeting.

2. 1998 Legislation

a. Draft of Pharmacy Support Personnel Legislation from Delegate Goldwater

To date a response has not been received from Delegate Goldwater in reference to the draft proposal. Delegate Goldwater's staff will forward a copy of the language for the proposed Task Force to study pharmacy support personnel to the Board once it is drafted.

C. PEAC Update-Stanton Ades

PEAC committed reported on the update to the development of the continuing education program for the mid year conference sponsored by the Maryland Pharmacists Association and the Maryland Society of Health Systems Pharmacists to be held in March. Additionally the committee met with representatives from chain stores to discuss how they can best convey the message of recovery to pharmacists working in chain drug stores as well as to students. The next meeting will be held on February 22, 1998 at the University of Maryland.

D. Pharmacy Practice Committee - Stanton Ades

Stanton Ades reported to the board updates from the committee meeting of January 12, 1998. There were three items reviewed, including: Assisted Living Regulations, Code of Conduct and Electronic Transmission Regulations. Nathan Gruz presented comments on the draft regulations which included concerns from the community. The next scheduled meeting to discuss these regulations will be held on February 11, 1998 at 4:00 p.m.

The draft Pharmacist Code of Conduct/Ethics regulations are being revised. The committee received several comments on the draft and will review them in detail at the next meeting. A new iteration of the regulation will be prepared for the Board and others to review.

Comments have been received on the regulations for Electronic Transmission.. Comments focused on concerns about who should ensure that confidential patient information is protected when electronic transmission is utilized to communicate a prescription. Because the Board has no jurisdiction over prescribers, a strict rule which punished the pharmacist for a release of patient information may be too harsh. The suggestion of only requiring that a pharmacist be prohibited from knowingly accepting a prescription which was not sent over a confidential system to the pharmacy of the patients choices was discussed. Mr. Ballard indicated that a “knowingly” standard would potentially stop enforcement by allowing a defense of ignorance for the pharmacist who does not inquire as to the security of the system

The Board indicated that they would like to re-draft the regulations to target the person who implements an electronic transmission system. It was suggested to include in sections 3 & 4 the phrase, “...the pharmacist knowingly participates in the establishment of the system.”

Additionally the Board requested that Mr. Denoyer consult with those making comments and determine if a due diligence clause in the regulation relating to permit holders being responsible to conduct reasonable inquiry about any electronic system that would be installed in order to determine that the system was designed to protect patient confidentiality.

Finally, one of the comments suggested that only patient identifiable data needs to be protected, and that a more stringent prohibition would stop most electronic prescription systems. Mr. Denoyer should recommend if the phrase personally identifiable data helps to clarify what is meant by protecting the confidentiality of individual patient records. The Pharmacy Practice Committee will review these changes and make recommendations

to the Board at a subsequent meeting.

10. Questions for the Board

A. Past Inquiry

There were no past inquiries.

B. New Inquires

1. Therapeutic Substitution Under P&T Committee Protocol-JHU

Robert Feroli, Acting Director Department of Pharmacy at the Johns Hopkins Hospital requested advice about automatic therapeutic substitution in an institutional setting when it is approved by the Pharmacy and Therapeutics Committee of the hospital. The Board believed that therapeutic substitution falls within the guidelines of the Institutional Regulations and may be interpreted as medication orders issued via protocol. David Denoyer was asked to research the regulations and write a letter to Dr. Feroli.

2. Doctor-Lawyer Educational Program: Suggestion by Judge for pharmacist participation

Hand-outs were given to Board Members as well as members of public on the doctor lawyer educational program provided to the Board by Judge Weitzman addressing the negative legal and medical consequences of drug abuse. The program is available through the District Court of Maryland. Pharmacist participation in the program is requested in order to continue to provide services to to all schools requesting such a program.

David Denoyer asked if Board members or other pharmacists were interested in volunteering for the program would contact him. He also volunteered to forward information on the program to pharmacy chains, EPIC and the pharmacy associations.

11. Informational

A. FDA Immediate Release announcing the Promotional Practices of Pharmacy Benefit Management Companies

Hand-outs were distributed at meeting.

B. Meetings

- (i) Norene Pease will be attending NABP Task Force meeting on Workload Systems on January 23 & 24, 1998
- (ii) David Denoyer, Dr. Ray Love and Stanton Ades will be attending a meeting with the Nursing Board on the safe methods for use of emergency drugs kits in home health care and hospice settings..

12. Follow-Up Letters

There was no discussion of the follow-up letters during the Board meeting.

The Public Session of the Board meeting adjourned at 11:10 a.m.

Respectfully submitted,

W. Irving Lottier, P.D.

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Board Secretary